

Appl. No.: 10/077,081
TC/A.U.: 3711 Docket No.: B01-74
Reply to Office Action of June 15, 2005

REMARKS

Claims 1-3, 7-13, 15-17, 35-39, 43-46, 48-50, 52-54, 57-73 appear in this application for the Examiner's review and consideration. Independent claim 1 has been amended to recite that the moisture vapor barrier layer comprises a non-ionomeric acid terpolymer and copolymer blend, that the terpolymer has a Shore D hardness of about 23 to about 41. Claim 14 has been incorporated into claim 1, so that claim 1 now recites that the water vapor barrier layer has a thickness of about 0.03 inch or less. Support for these claim amendments may be found at least in the Specification at page 8, lines 16-18; line 28 – page 9, line 14; page 10, lines 1-9; and canceled claim 14.

Claims 7, 10, 54, 57, 58, 60-63 and 65-67 have been amended to remove the recitation of the terpolymer and/or to make the claims consistent with amended independent claim 1. Claims 36-39 have been amended to recite that the water vapor barrier layer comprises a copolymer having the recited melt flow index. Support for the claim amendments may be found at least in the Specification at page 8, lines 1-9. Claim 59 has been amended to change the lower limit of the Shore D hardness and to recite that the Shore D hardness of 42 to 63 applies to the copolymer of the blend. Support for the claim amendments may be found at least in the Specification at page 8, lines 24-25. Claim 15 has been amended to change the claim dependency from claim 14 to claim 1 and claim 57 has been amended to change the claim dependency from claim 56 to claim 1.

No new matter has been added by these claim amendments. Claims 14, 40-42, 55 and 56 have been canceled without prejudice to Applicant's the right to file one or more continuation or divisional applications. Claims 2-3 and 68-73 are withdrawn.

Rejection Under 35 U.S.C. § 112, First/Second Paragraph

Claims 1, 7-17, 52-63, 66 and 67 were rejected under 35 U.S.C. § 112, first paragraph. The rejection of claims 14, 55 and 56 is now moot as these claims have been canceled without prejudice.

Although Applicant disagrees with the Examiner's statement that the claims lack support for the recitations regarding the claimed terpolymer, Applicant has amended claims 1, 7, 10, 54, 58, 60-63 and 65-67 to further prosecution. Claim 1 has been amended to recite that the hardness is for the terpolymer and to change the upper limit of the hardness to 41 from 40 to be

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consistent with the specification on page 9, lines 5-7. Claims 7 and 10 have been amended to remove the recitation to the terpolymer. Claims 54, 58, 60-63 and 65-67 have also been amended to remove the recitation to the terpolymer. Thus, there should now be support for claims 1-17, 54, 58, 60-63, 66 and 67.

With regard to claims 52 and 53, Applicant believes that there is support in the specification for the recited water vapor transmission rate. The specification states that preferably the water vapor barrier layer has a moisture vapor transmission rate that is lower than that of the cover, and more preferably less than the vapor transmission rate of an ionomer resin such as Surlyn®. The given range for Surlyn® resins is about 0.45 to about 0.95 grams-mm/m²-day. (See Specification, page 7, lines 7-10). This supports the water vapor barrier layer having a moisture vapor transmission rate less than the higher end of the range, so less than .95 grams-mm/m²-day, and less than the lower end of the range, so less than .45 grams-mm/m²-day as recited in claims 52 and 53.

With regard to amended claim 57, Applicant also believes that there is support for the recited acid levels as amended. The specification states that suitable polyethylene methacrylic acid includes specific examples of resins having 10% by weight of acid and 19% by weight of acid. (See Specification, page 8, lines 1-3). Thus, there is support for the amended 10% or 19% by weight of acid in claim 57.

With regard to amended claim 61, Applicant also believes that there is support for the recited percentages as amended. The specification states that at least one of the copolymer or terpolymer is present in an amount of 25%, 50% or 75%. (See Specification, page 9, lines 10-14). Thus, there is support for the amended 25%, 50% or 75% recited in claim 61.

Thus, claims 1, 7-13, 15-17, 52-54, 57-63, 66 and 67 have direct support in the specification. The rejections under 35 U.S.C. § 112, first paragraph, are therefore believed to have been overcome. Applicant respectfully requests reconsideration and withdrawal thereof.

Claims 36-42 and 59 were rejected under 35 U.S.C. 112, second paragraph. The rejection of claims 40-42 is now moot as these claims have been canceled without prejudice. Claims 36-39 have been amended to recite that the water vapor barrier layer further comprises a copolymer having the recited melt flow index. Support may be found at least in the Specification at page 8, lines 1-9. Thus, claims 36-39 further narrow the subject matter of independent claim 35.

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Claim 59 has been amended to recite that the copolymer of the blend of the moisture vapor barrier layer has the recited Shore D hardness. Support may be found at least in the Specification at page 8, lines 24-25. Thus, claim 59 further narrows the subject matter of independent claim 1.

Accordingly, claims 36-39 and 59 should now be definite. The rejections under 35 U.S.C. § 112, second paragraph, are therefore believed to have been overcome. Applicant respectfully requests reconsideration and withdrawal thereof.

Rejection Over U.S. Patent No. 5,779,561

Claims 1, 10-13, 17, 59, 60 and 62 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,779,561 to Sullivan *et al.* ("Sullivan"). Sullivan is generally directed to a multi-layer golf ball.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

As now recited in amended independent claim 1, the moisture vapor barrier layer comprises a non-ionomeric acid terpolymer and copolymer blend that has a thickness of about 0.03 inch or less. Sullivan fails to teach or suggest the inner cover layer 14 having a thickness of less than 0.04 inch. Moreover, Sullivan teaches away from reducing the thickness of the inner cover layer. The preferred thickness for the inner cover layer in Sullivan is from 0.05 to 0.125 inch, and more preferably from 0.055 to 0.1 inch. (See Sullivan, col. 10, lines 50-53). Thus, Sullivan fails to teach the claimed recitation and teaches away from having a water vapor barrier layer with a thickness of about 0.03 inch or less.

Claims 10-13, 17, 59, 60 and 62 depend from independent claim 1 and are patentable for at least the same reasons set forth above.

The rejections under 35 U.S.C. § 103(a) are believed to have been overcome for at least the above reasons. Applicant respectfully requests reconsideration and withdrawal thereof.

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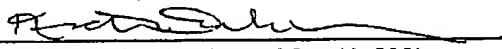
Conclusion

Based on the remarks set forth above, Applicant believes that all of the rejections have been overcome and the claims of the subject application are in condition for allowance. Should the Examiner have any further concerns or believe that a discussion with the Applicant's attorney would further the prosecution of this application, the Examiner is encouraged to call the attorney at the number below.

No fee is believed to be due for this submission. However, should any required fees be due, please charge them to Acushnet Company Deposit Account No. 502309.

Respectfully submitted,

17 Sept 05
Date


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